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Former attorneys for Defendant
AZGEN SCIENTIFIC HOLDINGS PLC

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ANTHONY C. LUSTIG,

Plaintiff,

v.

AZGEN SCIENTIFIC HOLDINGS PLC,

Defendant.

Case No.: 4:18-cv-07503-HSG

**NOTICE OF INABILITY TO COMPLY
WITH COURT ORDER RE
FORWARDING DOCUMENTS TO
DEFENDANT**

Judge: Hon. Haywood S. Gilliam, Jr.
FAC Filed: January 9, 2019

TO THE HONORABLE COURT, PLAINTIFF AND HIS COUNSEL OF RECORD:

PLEASE TAKE NOTICE of Inability to Comply with Court Order as follows:

I am a partner at the law firm of Duane Morris LLP, former counsel of record for Defendant AzGen Scientific Holdings Plc (“Defendant” or “AzGen”). This Notice is submitted as an update to the Court, Plaintiff Anthony C. Lustig and his counsel of record regarding changed circumstances and the resulting inability to comply with the Court’s order that Duane Morris LLP forward documents electronically to Defendant.

On March 22, 2019, the Court granted Duane Morris LLP’s motion to withdraw as counsel, ordered AzGen to obtain new counsel within 30 days, and required that Duane Morris LLP, during this 30-day period, accept service of papers and serve them on AzGen via Federal Express, as well

1 as forward them electronically to AzGen. [ECF 26]. Duane Morris LLP complied with these
2 requirements.

3 Defendant did not obtain new counsel during this 30-day period. On April 23, 2019, Plaintiff
4 filed a Request for Default. On April 24, 2019, the Court entered default as to Defendant [ECF 34].
5 On April 25, 2019, the Court issued a Minute Order ordering Duane Morris LLP to continue
6 accepting service of papers for forwarding electronically only to Defendant until otherwise ordered.
7 Service via FedEx was no longer required [ECF 35].

8 On June 5, 2019, Plaintiff's counsel emailed to me a deposition notice to be forwarded to
9 Defendant. A true and correct copy of my June 5, 2019 transmission email forwarding the
10 deposition notice to Defendant is attached hereto as **Exhibit A**. On June 5, 2019, I received a
11 bounce back notification stating that my emails to Defendant's representatives' emails of record
12 were undeliverable. A true and correct copy of that bounce back notification is attached hereto as
13 **Exhibit B**.

14 Via the internet, I identified a general electronic mail address for AzGen Scientific Holdings.
15 On June 12, 2019, I received a bounce back notification stating that my email to this general
16 company email of record was undeliverable. A true and correct copy of that bounce back
17 notification is attached hereto as **Exhibit C**. I have not had contact with or a response to my
18 electronic mail messages with Defendant since the motion to withdraw was granted.

19 Based upon the foregoing, Duane Morris LLP respectfully requests that the requirement in
20 the April 25, 2019 minute order of electronic forwarding be discontinued.

21 Dated: June 12, 2019

DUANE MORRIS LLP

22 By: /s/ James S. Brown

23 James S. Brown

24 Anjali Kulkarni

25 Former Attorneys for Defendant

26 AZGEN SCIENTIFIC HOLDINGS, PLC
27
28

Exhibit A

Subject: FW: Lustig v. AzGen
Attachments: Notice.Depo.Quarrio 6.5.19.pdf
FilingDate: 6/5/2019 4:52:00 PM

From: Brown, Jim
Sent: Wednesday, June 5, 2019 4:31 PM
To: 'Luis Siemens' <lsiemens@azgen.com>; Paul Gray (pgray@azgen.com) <pgray@azgen.com>
Subject: FW: Lustig v. AzGen

Attached please a document that was forwarded by plaintiff's counsel. We are sending this to you electronically as required by court order.

James S. Brown
Partner

Duane Morris LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
P: +1 415 957 3090
F: +1 415 723 7365

JamesBrown@duanemorris.com
www.duanemorris.com

From: Mary Bryan <mbryan@bancherolaw.com>
Sent: Wednesday, June 5, 2019 4:20 PM
To: Brown, Jim <JamesBrown@duanemorris.com>; Kulkarni, Anjali <AKulkarni@duanemorris.com>
Subject: Lustig v. AzGen

Counsel,

Attached is a Notice of Deposition of Quarrio Corporation. Please forward to AzGen as required by court orders dated March 22, 2019 and April 25, 2019.

Regards,

Mary Bryan

BANCHERO LAW FIRM LLP
601 California Street, Suite 1300
San Francisco, California 94108
(415) 398-7000
mbryan@bancherolaw.com

Confidentiality Notice: This message is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, or your receipt of this message is inadvertent, please notify the sender by reply e-mail and delete the message and any attachments. Any disclosure, copying, distribution, or other use of an e-mail or any attachment by a recipient who was not intended to receive the e-mail is prohibited.

Exhibit B

Subject: FW: FW: Lustig v. AzGen

From: postmaster@azgen.com <postmaster@azgen.com>

Sent: Wednesday, June 5, 2019 4:31 PM

To: prvs=10594e43a1=jamesbrown@duanemorris.com

Subject: Undeliverable: FW: Lustig v. AzGen

Delivery has failed to these recipients or groups:

[Paul Gray \(pgray@azgen.com\)](mailto:pgray@azgen.com)

Your message was rejected by the recipient email system. Please check the recipient's email address and try resending your message, or contact the recipient directly.

['Luis Siemens'](#)

Your message was rejected by the recipient email system. Please check the recipient's email address and try resending your message, or contact the recipient directly.

Diagnostic information for administrators:

Generating server: AM6PR08MB3031.eurprd08.prod.outlook.com

pgray@azgen.com

Remote Server returned '554 5.1.0 < #5.1.10 smtp;550 5.1.10 RESOLVER.ADR.RecipientNotFound; Recipient pgray@azgen.com not found by SMTP address lookup>'

lsiemens@azgen.com

Remote Server returned '554 5.1.0 < #5.1.10 smtp;550 5.1.10 RESOLVER.ADR.RecipientNotFound; Recipient lsiemens@azgen.com not found by SMTP address lookup>'

Original message headers:

Received: from HE1PR0802CA0007.eurprd08.prod.outlook.com (2603:10a6:3:bd::17) by AM6PR08MB3031.eurprd08.prod.outlook.com (2603:10a6:209:45::12) with Microsoft SMTP Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384) id 15.20.1965.12; Wed, 5 Jun 2019 23:30:47 +0000

Received: from HE1EUR01FT019.eop-EUR01.prod.protection.outlook.com (2a01:111:f400:7elf::202) by HE1PR0802CA0007.outlook.office365.com (2603:10a6:3:bd::17) with Microsoft SMTP Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384) id 15.20.1943.17 via Frontend Transport; Wed, 5 Jun 2019 23:30:46 +0000

Authentication-Results: spf=pass (sender IP is 67.231.149.12) smtp.mailfrom=duanemorris.com; azgen.com; dkim=pass (signature was verified) header.d=duanemorris.com;azgen.com; dmarc=pass action=none header.from=duanemorris.com;

Received-SPF: Pass (protection.outlook.com: domain of duanemorris.com designates 67.231.149.12 as permitted sender)
 receiver=protection.outlook.com; client-ip=67.231.149.12;
 helo=mx0b-00158602.pphosted.com;

Received: from mx0b-00158602.pphosted.com (67.231.149.12) by HE1EUR01FT019.mail.protection.outlook.com (10.152.0.179) with Microsoft SMTP Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384) id 15.20.1965.12 via Frontend Transport; Wed, 5 Jun 2019 23:30:45 +0000

Received: from pps.filterd (m0074545.pops.net [127.0.0.1]) by mx0a-00158602.pphosted.com (8.16.0.27/8.16.0.27) with SMTP id x55NRPLg011458; Wed, 5 Jun 2019 19:30:43 -0400

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed; d=duanemorris.com; h=from : to : subject : date : message-id : references : in-reply-to : content-type : mime-version; s=POD04242018; bh=M69rOtNsIphyRTuf5r/Xn25YVrhsLUEOxa+ulb4SCkk=; b=oiJVio8uxHivHa2l0dBrjqKXpzbwfbmZQ0SghSr8iRP84q9SWjZkWVYJTty6f3mKxKAc oSS+scT/AwsnzfvPycpI5IK5XsyWrfTT+wufjNFkBlnAsUcEk7vgHREwTGT2IIM8iccT h0RVt1LA0l9Ha/xS0uQKOI4YYVF7tg7+WdNLAuTjgrYx73Ik9gI3GW7tv8aalEbjlMpu 6odbbCz+Q+o+aKoWQzxc+4MHcIJ8skHU8MNC6HCGzunnyBsBe+J5eZXkComF8dQk8C84Y 2FjO4zlePlm8h8zpHtKR0NaVQnlvGe8iXtos2a1U0WGCxYqFyDaXB0QW6ZUU4E/L5pxi QA==

Received: from mymail.duanemorris.com ([12.144.20.145]) by mx0a-00158602.pphosted.com with ESMTTP id 2sxqdj08m-1 (version=TLSv1.2 cipher=ECDHE-RSA-AES256-SHA384 bits=256 verify=NOT); Wed, 05 Jun 2019 19:30:40 -0400

Received: from phlexmb01.corp.duanemorris.net (10.1.2.32) by phlexmb02.corp.duanemorris.net (10.1.2.33) with Microsoft SMTP Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_CBC_SHA384_P521) id 15.1.1713.5; Wed, 5 Jun 2019 19:30:39 -0400

Received: from phlexmb01.corp.duanemorris.net (:::1) by phlexmb01.corp.duanemorris.net ([fe80::5d32:f8b1:36f6:1dc5%14]) with mapi id 15.01.1713.006; Wed, 5 Jun 2019 19:30:39 -0400

From: "Brown, Jim" <JamesBrown@duanemorris.com>
 To: 'Luis Siemens' <lsiemens@azgen.com>, "Paul Gray" (<pgray@azgen.com>)
 <pgray@azgen.com>
 Subject: FW: Lustig v. AzGen
 Thread-Topic: Lustig v. AzGen
 Thread-Index: AdUb909Mc5PBQxqsS8ujVJvf4FXB9wAAYSaw
 Date: Wed, 5 Jun 2019 23:30:38 +0000
 Message-ID: <8de75983301f4314ac33b952ec37af68@duanemorris.com>
 References: <37f632df31ef4899b5adeea9c8b1de77@S12-MBX11-14.S12.local>
 In-Reply-To: <37f632df31ef4899b5adeea9c8b1de77@S12-MBX11-14.S12.local>
 Accept-Language: en-US
 Content-Language: en-US
 X-MS-Has-Attach: yes
 X-MS-TNEF-Correlator:
 x-pgma-masrq: I
 x-originating-ip: [10.1.8.22]
 Content-Type: multipart/mixed;
 boundary="_004_8de75983301f4314ac33b952ec37af68duanemorriscom_"

MIME-Version: 1.0
 X-Proofpoint-Virus-Version: vendor=fsecure engine=2.50.10434:,, definitions=2019-06-05_15:,, signatures=0
 X-Proofpoint-Spam-Details: rule=outbound_notspam policy=outbound score=0 priorityscore=1501 malwarescore=0 suspectscore=0 phishscore=0 bulkscore=0 spamscore=0 clxscore=1015 lowpriorityscore=0 mlxscore=0 impostorscore=0 mlxlogscore=999 adultscore=0 classifier=spam adjust=0 reason=mlx scancount=1 engine=8.0.1-1810050000 definitions=main-1906050149

Return-Path: prvs=10594e43a1=jamesbrown@duanemorris.com
 X-EOPAttributedMessage: 0
 X-EOPTenantAttributedMessage: cdc16e80-bc8f-4873-8372-31219a863348:0

X-Forefront-Antispam-Report: CIP:67.231.149.12;IPV:NLI;CTRY:US;EFV:NLI;
X-MS-PublicTrafficType: Email
X-MS-Office365-Filtering-Correlation-Id: 3b34180e-880d-466c-36a6-08d6ea0dd5a4
X-Microsoft-Antispam:
BCL:0;PCL:0;RULEID:(2390118)(7020095)(4652040)(5600148)(711020)(4605104)(4709080)(8001031)
(1402095)(49563074)(71702078)(7193020);SRVR:AM6PR08MB3031;
X-MS-TrafficTypeDiagnostic: AM6PR08MB3031:
X-MS-Exchange-PUrlCount: 1

Exhibit C

Subject: FW: test

From: postmaster@azgen.com <postmaster@azgen.com>

Sent: Wednesday, June 12, 2019 3:25 PM

To: prvs=10662c5c7c=jamesbrown@duanemorris.com

Subject: Undeliverable: test

Delivery has failed to these recipients or groups:

hello@azgen.com

Your message was rejected by the recipient email system. Please check the recipient's email address and try resending your message, or contact the recipient directly.

Diagnostic information for administrators:

Generating server: DB8PR08MB4057.eurprd08.prod.outlook.com

hello@azgen.com

Remote Server returned '554 5.1.0 < #5.1.10 smtp;550 5.1.10 RESOLVER.ADR.RecipientNotFound; Recipient hello@azgen.com not found by SMTP address lookup>'

Original message headers:

Received: from VI1PR0802CA0015.eurprd08.prod.outlook.com
(2603:10a6:800:aa::25) by DB8PR08MB4057.eurprd08.prod.outlook.com
(2603:10a6:10:a5::24) with Microsoft SMTP Server (version=TLS1_2,
cipher=TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384) id 15.20.1987.11; Wed, 12 Jun
2019 22:25:18 +0000

Received: from DB5EUR01FT007.eop-EUR01.prod.protection.outlook.com
(2a01:111:f400:7e02::202) by VI1PR0802CA0015.outlook.office365.com
(2603:10a6:800:aa::25) with Microsoft SMTP Server (version=TLS1_2,
cipher=TLS_ECDHE_RSA_WITH_AES_256_CBC_SHA384) id 15.20.1965.12 via Frontend
Transport; Wed, 12 Jun 2019 22:25:18 +0000

Authentication-Results: spf=pass (sender IP is 67.231.149.12)
smtp.mailfrom=duanemorris.com; azgen.com; dkim=pass (signature was verified)
header.d=duanemorris.com;azgen.com; dmarc=pass action=none
header.from=duanemorris.com;

Received-SPF: Pass (protection.outlook.com: domain of duanemorris.com
designates 67.231.149.12 as permitted sender)
receiver=protection.outlook.com; client-ip=67.231.149.12;
helo=mx0b-00158602.pphosted.com;

Received: from mx0b-00158602.pphosted.com (67.231.149.12) by
DB5EUR01FT007.mail.protection.outlook.com (10.152.4.107) with Microsoft SMTP
Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_CBC_SHA384) id
15.20.1987.11 via Frontend Transport; Wed, 12 Jun 2019 22:25:17 +0000

Received: from pps.filterd (m0074545.pops.net [127.0.0.1])

by mx0a-00158602.pphosted.com (8.16.0.27/8.16.0.27) with SMTP id x5CMM7fu025429
for <hello@azgen.com>; Wed, 12 Jun 2019 18:25:15 -0400

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed; d=duanemorris.com; h=from : to :
subject : date : message-id : content-type : mime-version; s=POD04242018;
bh=HhmXSz4cF3K9cBMPVgrRJ54LJI0lxXVZnRa+DJOE7o=;
b=HTUs2WXCrainYAKC1B/bzMrLrtjwmcsX3pqDry5CszGLXrtJKV6CPumB5d9f42k6ff9x
eZ8h7gQ3k+V5McgpIl6BF8B3J4H40gunKNnJ+IjM/YxFez6N6qn9T2gSag0Tuese6Gmf
6wlnAzOVe4JefTgYLleD6IJMI7Ga7++zG7N5OzADh6McDQNXyYb/by3aOqAmC0oJv6YH
x1jw/Hr+jSE/S5zT7ggmxORFJia9H6Ni7ic2dj5Xntm4AOGM75QHIXucH5LHrHfl2QI4
QvAhG+jk8+Y68J/jO3KK7vomNx9MjWcqs153nfxUOBWveSWmajS6hnHpOtdvCBwoqGh2 ug==

Received: from mymail.duanemorris.com ([12.144.20.94])
by mx0a-00158602.pphosted.com with ESMTTP id 2t39sxglux-1
(version=TLSv1.2 cipher=ECDHE-RSA-AES256-SHA384 bits=256 verify=NOT)
for <hello@azgen.com>; Wed, 12 Jun 2019 18:25:15 -0400

Received: from phlexmb01.corp.duanemorris.net (10.1.2.32) by
phlexmb01.corp.duanemorris.net (10.1.2.32) with Microsoft SMTP Server
(version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_256_CBC_SHA384_P521) id
15.1.1713.5; Wed, 12 Jun 2019 18:25:14 -0400

Received: from phlexmb01.corp.duanemorris.net (:::1) by
phlexmb01.corp.duanemorris.net ([fe80::5d32:f8b1:36f6:1dc5%14]) with mapi id
15.01.1713.006; Wed, 12 Jun 2019 18:25:14 -0400

From: "Brown, Jim" <JamesBrown@duanemorris.com>
To: "<hello@azgen.com>" <hello@azgen.com>
Subject: test
Thread-Topic: test
Thread-Index: AdUhbbEsGaRcIAeHSVaW9qeTI2Y7dQ==
Date: Wed, 12 Jun 2019 22:25:13 +0000
Message-ID: <8c8070d5b9854447aaa3ee96ce4af17a@duanemorris.com>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
x-originating-ip: [10.1.8.22]
Content-Type: multipart/alternative;
boundary="_000_8c8070d5b9854447aaa3ee96ce4af17aduanemorriscom_"

MIME-Version: 1.0
X-Proofpoint-Virus-Version: vendor=fsecure engine=2.50.10434:,, definitions=2019-06-12_13:,,
signatures=0
X-Proofpoint-Spam-Details: rule=outbound_notspam policy=outbound score=0
priorityscore=1501
malwarescore=0 suspectscore=0 phishscore=0 bulkscore=0 spamscore=0
clxscore=1011 lowpriorityscore=0 mlxscore=0 impostorscore=0
mlxlogscore=936 adultscore=0 classifier=spam adjust=0 reason=mlx
scancount=1 engine=8.0.1-1810050000 definitions=main-1906120156

Return-Path: prvs=10662c5c7c=jamesbrown@duanemorris.com
X-EOPAttributedMessage: 0
X-EOPTenantAttributedMessage: cdc16e80-bc8f-4873-8372-31219a863348:0
X-Forefront-Antispam-Report: CIP:67.231.149.12;IPV:NLI;CTRY:US;EFV:NLI;
X-MS-PublicTrafficType: Email
X-MS-Office365-Filtering-Correlation-Id: f198274b-74bb-4b72-ba5a-08d6ef84d93c
X-Microsoft-Antispam:
BCL:0;PCL:0;RULEID:(2390118)(7020095)(4652040)(5600148)(711020)(4605104)(4709080)(8001031)
(1402095)(71702078)(7193020);SRVR:DB8PR08MB4057;
X-MS-TrafficTypeDiagnostic: DB8PR08MB4057:
X-MS-Exchange-PUrCount: 1